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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATHANIEL GARDNER,

Plaintiff,

v.

THE UNITED STATES DEPARTMENT
OF JUSTICE; THE DRUG
ENFORCEMENT ADMINISTRATION
and THE PERSON(S) CURRENTLY ON
RECORD TITLE TO 1955 FORD
THUNDERBIRD VIN. # P5FH235863,

Defendants.

No. CV 08-01248 VRW

**NOTICE OF MOTION AND MOTION
TO DISMISS COMPLAINT FOR
DAMAGES**

PLEASE TAKE NOTICE THAT ON Thursday, August 21, 2008, at 2:30 PM, or as soon thereafter as the matter may be heard in the courtroom of the Honorable Vaughn R. Walker, Courtroom 6, 17th Floor of the U.S. Courthouse located at 450 Golden Gate Ave., San Francisco, CA, Defendants United States Department of Justice and Drug Enforcement Administration will and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 12, for an order dismissing Plaintiff Nathaniel Gardner's Complaint for Damages for lack of subject matter jurisdiction.

This Motion is based on this Notice of Motion; the Response to Motion to Set Aside

1 Forfeiture and Motion to Dismiss Complaint for Damages, filed herewith; the declarations of
2 John Hieronymus, Andrea Howard, and Bettie E. Goldman, filed herewith; the pleadings and
3 papers on file herein; and upon such other matters as may be presented to the Court at the time of
4 the hearing.

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7 Respectfully submitted,

8 JOSEPH P. RUSSONIELLO
9 United States Attorney

10 Dated: May 7, 2008


11 DAVID B. COUNTRYMAN
12 Assistant United States Attorney
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